Supreme Court, U. S.
FILED
NOV 27 1979
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1979

No. 79-403

OWEN W. CRUMPACKER,

Petitioner,

vs.

INDIANA SUPREME COURT DISCIPLINARY COMMISSION and SAUL I. RUMAN, COMPLAINANT

Respondents.

PETITION FOR WRIT OF CERITIORARI TO THE SUPREME COURT OF INDIANA

PETITIONER'S BRIEF IN REPLY TO RESPONDENTS' BRIEFS

(APPENDIX ATTACHED)

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In The
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October Term, 1979

No. 79-403

OWEN W. CRUMPACKER,
Petitioner,
vs.
INDIANA SUPREME COURT DISCIPLINARY COMMISSION and
SAUL I. RUMAN, COMPLAINANT,
Respondents.

On Petition For Writ Of Certiorari To
The Supreme Court Of Indiana

REPLY OF PETITIONER IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI (Appendix Attached)

To the Supreme Court of the United States of America, and the Honorable Justices thereof, and each individually.

Respectfully, Petitioner replies:

I

OPINIONS BELOW

Respondent(s) except to the determination entered by the Honorable Judge Bruce W. Douglas (of the Indiana courts) on November 9, 1976, and his determination noted "Findings of Fact, Conclusions of Law, and Recommendations of Hearing Officer." (Such determination by the Hearing Officer is part of the opinions below.) It reads (in part):

> "The undersigned was appointed Hearing Officer, qualified and assumed jurisdiction."
>
> "This case is decided on the merits of each count." (Then a finding and determination on each count.)
>
> "In conclusion the Hearing Officer has found for Owen W. Crumpacker, the Respondent."

Such trial court hearing officer is appointed under Rules provided, established, and promulgated, for proceedings toward discipline and disbarment of an attorney at law (of Indiana).

The trial hearing officer(s) is provided under Rule 23 A & D § 11(b). He is empowered and charged with a "duty" "to hear and determine said charges." (See Rule 23, § 11(b) thereof). The

"determination" is in "Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer." They constitute the "determination" (to be made); they are the "order" and "judgment" of the trial court judge, as in a matter tried without a "jury"; they are a determination "equal" and of the same lawful and constitutional weight in law as a "verdict of the jury". (Underlining supplied)

Other sections and provisions of the Rules read consistent therewith (e.g. see Rule 23 A & D, Indiana Rules):

> § 14(e) provides: "The proceeding may be summary in form and shall be without the intervention of a jury and shall be reported."
>
> § 14(d) provides: "...and no other court or judicial officer of this State shall have jurisdiction to issue any orders or process in connection with a disciplinary complaint." (Underlining supplied)

The hearing officer(s) limited in numbers not to exceed three (3). (Rule 23, § 11(b) thereof.)

Under such Rules (particularly Rule 23 § 14(f), formerly § 14(d) thereof) the trial court hearing officer(s) has exclusive jurisdiction and the duty: "to determine whether misconduct has been proven by a preponderance of the evidence."

The Court (as well) under other provisions of the Rule has provided for, empowered, and authori-

zed a "dismissal" of a "grievance" (charge) under and upon earlier consideration and "determination" made thereto by the Disciplinary Commission and the Executive Secretary of the Commission. (See Rule 23, § 10(a) thereof.)

The power and duty to "determine" charges of "misconduct" given to a hearing officer is part of the total powers and duties assigned by the Supreme Court of Indiana in matters of Admission and Discipline. (See the Rules relating to Admissions and Examination, particularly Rule 12, Committee on Character and Fitness; Rule 12, Board of Law Examiners, and duties and powers of Executive Secretary and Disciplinary Commission, Rule 23, §§ 10, 11.)

For respondent(s) to except and assert here that the "Findings of Fact, Conclusions of Law, Recommendations of the Hearing Officer" entered by Hon. Judge Bruce W. Douglas on November 9, 1976, are not part of the judgments and opinions below is to deny to this Honorable Supreme Court of the United States that which reveals the "true facts" upon actions of the Indiana Supreme Court taken by order made and entered by such Indiana court on November 29, 1978.

II

JURISDICTION

The jurisdictional requisites are adequately set forth in the petition. The issue presented is justiceable. The petitioner asserts (by disbarment) he has been deprived of liberty and property without due process of law, in violation of rights under the Constitution of the United States, and as well the Common Law of Indiana, its Constitution, and Rules of Court. This is denied by respondents. A controversy exists.

III

QUESTIONS PRESENTED

The Commission accedes in the same (as stated by the petitioner). This may be sufficient. (Ruman interjects his own. Whether proper that he so do.) Petitioner submits answers to each:

A - Yes C - Yes

B - Yes D - Yes (first part only)

Question "D" (given) is stated in two (2) parts; the latter part (following after the word "protected") is not a question; it is an assertion (in "innuendo"); it is improper. Petitioner would deserve self-censure should he engage thereon. No

response is made.

IV

CONSTITUTIONAL PROVISIONS, STATUTES, AND COURT RULES INVOLVED

Ruman invites attention to additional provisions. Petitioner accepts the same: e.g. Indiana Constitution:

> Article I, § 12. All courts shall be open; and every man, for injury done him in his person, property, or reputation, shall have remedy by due course of law.....
>
> Article I, § 14. No person shall be put in jeopardy twice for the same offense. No person, in any criminal prosecution, shall be compelled to testify against himself.....

V

STATEMENT OF THE CASE

Contrary to the assertions made by the respondents, petitioner is correct in his statement of the case. In substance petitioner was "tried" in a disbarment proceeding and was "acquitted" by the "trial court".

By "fiction" of "review" before the Supreme Court of Indiana, respondents effect of record a

disbarment of petitioner. Petitioner's lawful rights are wholly suppressed, and wholly denied, without due process of law, by error in the Supreme Court of Indiana.

By extended remarks, not material to the issues herein, Ruman by comment upon the Statement of the Case as made by petitioner has in his Answer obviously has attempted to "poison the wells" against the petitioner. Petitioner's simple reply to Ruman need be only that the trial hearing officer received all which was properly part of the record, and made his "determination" on all the record to "exonerate" Crumpacker of all claims against him and "acquit" him of all charges of misconduct.

Ruman's comments mislead and are not the true facts in full. To the extent petitioner may further find need of any reply to the same they will be entered and extended, if at all, and contained in an appendix, as may be attached. (Reply App. A1-A6)

VI

ARGUMENT

Petitioner is entitled to relief and grant of a Writ of Certiorari, for reasons as follows:

First: PETITIONER WAS ACQUITTED BY THE TRIAL HEARING OFFICER; JEOPARDY ATTACHED.

Second: PETITIONER WAS DENIED DUE PROCESS.

(a) Actions by Indiana Supreme Court following after acquittal were denial of due process, and without jurisdiction.

(b) Such acts were in denial of due process, and made and taken without notice, and an opportunity to be heard.

Third: PETITIONER HAS NO FURTHER MEANS OF REDRESS IN INDIANA.

Fourth: PROCEDURES OR TECHNICAL ERRORS OUGHT NOT TO DEFEAT CONSTITUTIONAL AND FUNDAMENTAL RIGHTS.

Petitioner states also upon the argument as follows:

In the instant case, the court of Indiana denied to petitioner total due process of law, and indulged in "double jeopardy" against petitioner, contrary to law, the Federal Constitution, the Common Law of Indiana, the Constitution of the State of Indiana, and its own Court Rules. All was in contradiction of the acquittal at Crumpacker's trial.

Never has petitioner waived his rights; never has he consented to, or submitted in any way to disbarment. Such disbarment is wholly "void". It was taken without jurisdiction, and was made without notice, hearing, and opportunity by petitioner

(Crumpacker) to be heard (then) before the Indiana Court (itself); it should be declared "void".

The procedural rules effective in 1976 through 1978 and the present were adopted June 23, 1971. (under order of court, made prior to the Code of Professional Responsibility.) The Code was adopted on the 8th day of March, 1971. The Rules of Discipline were then amended. The June 1971 amendment completely changed the form and content of Rule 23 (Admission and Discipline). This is the statement made and contained in the compiler's notes, in the Rules Compilation contained in Burns' Indiana Statutes Annotated.

In re Pawlowski (1959), 240 Ind. 412, 165 NE2d 595, is cited prominently by the Indiana Supreme Court in its opinion on the order disbarring Crumpacker (dated November 29, 1978). It is used by the Court now to illustrate its so-called proceedings and the nature of review, upon a hearing officer's "Findings of Fact", etc. The Pawlowski case occurred (however) in 1959. This was at a time when the requirements in a disciplinary proceeding were (then) contained in the Indiana court rule described as Rule 3, § 3-21 to 3-25 inclusive. These rules were abrogated in 1969 and superceded by the new rules which are currently in effect.

Under the rule, in 1959 the hearing was before a "Commissioner". He was authorized and empowered under Rule 3-24 only "to hear and report the evidence and to make findings of fact, to which exceptions may be taken", etc. Under such rule, the "Commissioner" was not authorized, nor empowered, and under no duty to make a "determination" upon the "charges" of "misconduct" against the accused. The function of Commissioner then was to (simply) "hear and report the evidence and to make findings of fact". This is far short of, and does not include determination upon the charges, or an adjudication of the case, "upon the merits of each count". After 1969, when the current rules first came into effect, the power and duty placed upon and assigned to the Hearing Officer was to "determine the charges" and "shall determine whether misconduct has been proven by a preponderance of the evidence". This power and duty then assigned is that of a trial judge sitting in the place of a jury, and empowered and under duty to determine the charges and (in effect) "render a verdict".

To permit the Indiana Supreme Court, under Rule 23 A & D, as now present and existing on November 9, 1976, to proceed in a "purported" review upon the "determination" made by the Hon. Bruce W. Douglas and to allow a review wholly contrary to, "ignoring" the "exoneration" and "acquittal" of Crumpacker as "determined and adjudged" by such Judge Douglas, is to allow the

State of Indiana to "appeal" a "verdict of acquittal" in favor of the accused. This is not what the rules allow. If the rules did so allow, they are and would be UNCONSTITUTIONAL.

To suggest (as the Commission and Ruman do) that in "review" the Court of Indiana can "ignore" and wholly "negate" an "acquittal" rendered by the trial hearing officer in a determination of charges made against an accused attorney, is to wholly misconceive the purport and content of the current Indiana Rules. They fail to recognize the nature of the proceedings; that they are "accusatory" and "quasi-criminal" in form and content.

For the Commission and Ruman to rest upon a "format" of the proceedings as stated and illustrated in the 1959 case of In re Pawlowski, supra, is error. It misleads THIS Court. That case arose and proceeded under (old) Rule 3-21, etc., which is no longer law.

To proceed then thus upon the "foundation" of Pawlowski and any "bricks" "laid in place" thereafter and to rest a present case upon Pawlowski and any of the "bricks" following puts a house upon a "false bottom". It is certain to result in time in "collapse".

To the best ability of petitioner to find, (except for In re Smith) none of the decisions cited

by respondents concerned a "discipline" by the Supreme Court of Indiana following upon an "acquittal" made by the trial hearing officer. In each instant there was initially a "conviction" made by the trial hearing officer. In In re Smith (1976), ___Ind.___, 351 NE2d 1, the discipline order was a simple "reprimand" (which Smith apparently accepted). No claim or comment thereon is noted in the opinion, and apparently no question relative to "jeopardy" was raised by Smith. (This, obviously, does not constitute a construction of the court of the rule upon the law.) (Now) that the Supreme Court of Indiana may have previously (already) "erred" upon its own rules, does not validate and justify a continuance of error and a denial of due process, when a challenge is made.

To continue the construction of the rules as given by respondents (if intended) runs counter to the plain common sense meaning of the language of the rules. It would give a construction that is invalid as counter to the Common Law of the State of Indiana, the Indiana Constitution, and the United States Constitution relative to "due process" and "double" or "former" jeopardy. It would countenance a "criminal appeal" by the State upon the "fact issue" of an "acquittal".

At best, in a criminal case, the State of Indiana allows "an appeal" on the "law" only for

the purposes of "guidance on the law". No appeal is allowed upon the "verdict".

At all times, the Indiana Supreme Court knew and was aware that Crumpacker considered the proceedings against him as wholly unjustified and unlawful; and that upon the merits and upon the proceedings had, the disbarment made was in violation of his rights under law and the Constitution, Federal and State, the Court Rules themselves, and the Common Law of Indiana as well. After entry of disbarment on November 29, 1978, the Indiana court persisted in its actions against Crumpacker and totally ignored his demands for hearing and reconsideration.

This application, for a Writ of Certiorari, by Crumpacker, as well (too) was communicated and made known to the Indiana Supreme Court, duly and at the time that Crumpacker requested an extension from this Court to file his application for Writ of Certiorari, to enable the Indiana court to give Crumpacker a hearing and reconsideration of its order of disbarment. Petitioner asserts that in this case that in truth no "lawful grounds" for disbarment exist. As stated by the trial hearing officer, the Honorable Judge Bruce W. Douglas, "It was evident from the start that this proceeding wasn't the typical disbarment hearing."

Petitioner respectfully submits that support for this petition and the claims of petitioner for a Writ of Certiorari herein is found in the following authorities:

A DISBARMENT PROCEEDING IS (in substance) "QUASI-CRIMINAL". (See):

Ex parte Garland (1867) 4 Wall 333, 18 L.Ed. 366

In the Matter of John Ruffalo, Jr. (1968), 390 U.S. 544, 88 S.Ct. 1222

Spevak v. Klein (1967) 385 U.S. 511, 87 S.Ct. 625, 17 L.Ed.2d 574

Furman v. State Bar of California, 12 Cal. 212, 83 P.2d 12, 21

In re Houghton, 67 Cal. 511, 517; 8 P. 52, 57

Golden v. State Bar, 213 Cal. 237; 2 P.2d 325, 329

cf. In re Gault (1967) 387 U.S. 1, 84 S.Ct. 1428; 12 L.Ed.2d 527

cf. Malloy v. Hogan (1964) 378 U.S. 1; 84 S.Ct. 1489; 12 L.Ed.2d 653

NOT ONLY THE ACT CHARGED, BUT THE BAD OR FRAUDULENT MOTIVE MUST BE PROVED. (See):

Gerald v. State, 99 Fla. 662; 127 So. 309; 369 ALR 699

State ex rel. Florida Bar v. Bass (1958) 106 S2d 77; (Power to disbar an attorney should be exercised only in a clear case, for weighty reareasons, and on clear proof and not

arbitrarily or lightly, or with passion or prejudice.

THE ATTORNEY (accused) MUST HAVE PRIOR NOTICE OF THE "CHARGES" OF MISCONDUCT, AND MUST KNOW (before acting) THAT HIS ACTS ARE MISCONDUCT (as essential to due process). (See):

In the Matter of John Ruffalo, Jr. (1968) 390 U.S. 544, 88 S.Ct. 1222

In re Oliver (1948), 333 U.S. 257, 68 S.Ct. 499, 92 L.Ed. 682

SHAM AND PRETENSE OF A HEARING IS NOT DUE PROCESS. (See):

Morhouse (Warden) v. Supreme Court of N.Y. (1944), 283 NY 131, 56 N.E.2d 79

JUDGMENT WITHOUT JURISDICTION IS VOID. (See):

Bayliss v. Johnston (1943), 48 F.Supp. 758

THE ATTORNEY AT LAW IS ENTITLED TO DUE PROCESS, NOTICE, AND OPPORTUNITY TO BE HEARD BEFORE THE COURT (itself—which makes the order of disbarment). (See):

Selling v. Radford (1917), 243 U.S. 46, 37 S.Ct. 77, 612 L.Ed. 585

Theard v. United States (1957), 354 U.S. 278, 77 S.Ct. 1274, 12 L.Ed.2d 1342

In re Noell, 21 F.Supp. 397

In re Noell (C.C.A.) 93 F.2d 5
(Hearings before commissioners were not hearings before the Court, and briefs filed subsequent to the order were not the equivalent of a hearing by the Court on the merits.)

In re Teitlebaum (1958) (7th Cir.), 253 F.2d 2

In re Feingold (1972-Me.), 296 A.2d 492

In re MacNeil (1959) 266 F.2d 167

cf. Greene v. McElroy (1959) 360 U.S. 474, 79 S.Ct. 1400

THE CONSTITUTION OF THE U. S. OPERATES ON AN "APPLICANT" FOR ADMISSION TO THE BAR, AND AS WELL DISCIPLINE; RELIEF FROM THE U. S. SUPREME COURT IS BY WRIT OF CERTIORARI. (See):

Theard v. U. S. (1957) 354 U.S. 271, 77 S.Ct. 1274, 12 L.Ed.2d 1342

In re MacNeil (1959) 266 F.2d 167

Ginger v. Circuit Court for County of Wayne (1967) 372 F.2d 621

Willmer v. Comm. on Character & Fitness (1963) 373 U.S. 96, 83 S.Ct. 1179, 10 L.Ed. 29

Schware v. Board of Bar Examiners (1957) 353 U.S. 232, 77 S.Ct. 352

Konigsberg v. State Bar of California (1957) 353 U.S. 252, 77 S.Ct. 722

THE FUNCTION OF "TO HEAR AND DETERMINE" means "TO DECIDE" and "ADJUDICATE"; (not just to "hear and report". (See):

Broderick v. Saretsky (1942) 178 Misc. 424, 34 NYS 2d 941

Eastman Kodak Co. v. Richards, 123 Misc. 88, 204 NYS 249

Wilson v. Sanders, 151 S.E.2d 705

Smith v. Board of Education, 174 Ga. 735, 739 164 S.E. 41, 43

Committee v. Crary (1976-Iowa) 245 N.W.2d 298

New Jersey R & T Co. v. Suydam, 7 N.J. Law 25

Bedford v. Hol-tan Co., 140 App. Div. 282, 125 NYS 178

In re LeTarte v. Bd. of Education (1970), 316 NYS 781

Glenn v. Mitchell, 71 Colo. 394, 207 P. 84

Cutler v. Wall (1869), 9 R.I. 264
("The rules of the Court giving him (the referee) the power to hear and determine the matter in controversy made him a judge of the rights of the parties, and gave him powers to decide all questions of law or of fact arising in the hearing of the cause, and his power is to give a final determination of the controversy by the submission of the parties to his judgment, he is constituted a court of competent jurisdiction." (Underlining supplied.)

THE PRINCIPLE OF "FORMER" JEOPARDY (at times recited as "double jeopardy") ATTACHES AND APPLIES TO ANY PROCEEDING, CRIMINAL, CIVIL, QUASI-CRIMINAL,

OR WHATEVER, (proceeding concerned) UNDER AMERICAN COMMON LAW, THE COMMON LAW OF THE STATE OF INDIANA, THE CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THE STATE OF INDIANA. (See):

Gillespie v. State (1907), 168 Ind. 298, 80 N.E. 829 (Constitutional provision relating to "former jeopardy" is construed to be affirmation of existing Common Law.)

Green v. U. S. (1957), 355 U.S. 184 78 S.Ct. 221

U.S. v. Sanges (1892), 144 U.S. 310, 12 S.Ct. 609 (Appeal is not allowed to the State, neither under Common Law, nor the judiciary act, upon a verdict of acquittal, or upon a determination by the Court of an issue of law.)

Ball v. U.S. (1896) 163 U.S. 662, 16 S.Ct. 1192 (A general verdict of acquittal is a bar to a second indictment.)

Kepner v. U.S. (1904), 195 U.S. 100, 24 S.Ct. 797 (Former jeopardy is a bar; an acquittal bars second jeopardy for the same offense.)

State v. Hall (1877), 58 Ind. 512 (Statute allowing appeal in cases of acquittal was not intended that court should review questions of fact decided in the court below, and court on appeal has no power over the verdict on acquittal.)

State v. Robbins (1943), 221 Ind. 25, 46 N.E.2d 691

State v. Sierp (1973), 260 Ind. 57, 292 NE2d 245

State v. Huebner (1954), 233 Ind. 566, 122 NE2d 88

State v. Gardner (1954), 233 Ind. 566, 122 NE2d 88

People v. Murphy (1935), 244 App. Div. 382, 280 NYS 405

People v. Merril (1935) 156 Misc. 637, 282 NYS 809

State v. Evjue (1949), 254 Wisc. 581, 37 NW2d 50, (directed verdict of acquittal. "An appeal from an an acquittal, under statute authorizing a state to take a writ of error from rulings and decisions adverse to the State upon all questions of law arising on trial in criminal cases, would violate double jeopardy provisions of Constitution.")

Commonwealth v. Ramey (1939), 279 Ky 810, 132 SW 2d 342

People v. Goldfarb (1912), 152 App. Div. 870, 138 NYS 62

Peabody v. Kaufman (1946), 61 NYS2d 313 (a statute giving right of appeal to the State from an acquittal after trial for a criminal offense is unconstitutional. An organization, such as a labor union, cannot by its own governmental legislation or administrative acts transcend fundamental rights of individual members guaranteed by public law an natural justice.)

Rueb v. Rehder (1918), 24 N.M. 534, 174 P. 992 (if a member of a society is once acquitted on a trial upon charges preferred against him, he cannot be tried again for the same offense, unless the by-laws of the association specifically authorize a second trial.)

O'Neill v. United Ass'n of Journeymen Plumbers (1944), 348 Pa. 531, 36 A.2d 325 (A member of a a voluntary association may obtain relief from a court against conduct which is without color of authority and which is flagrantly in violation of fundamental laws.)

THE SUPREME COURT OF THE STATE OF INDIANA BY ITS (own) ORDER OF DISBARMENT BARS THE ATTORNEY FROM PRACTICE BEFORE THE FEDERAL COURTS WITHIN THE STATE.

Matter of Perrillo (1979), ___ Ind. ___, 386 NE2d 174 (This decision appears to contravene Selling v. Radford, supra, and In re Noell, supra, and cases following the decisions there which assert that the power and authority upon disbarment from the Federal courts is in the Federal courts themselves.)

CONCLUSION

It once was said:

> "If the dignity of the law is to be upheld, it must be upheld first by those who administer it; where there is rout and shout, no wisdom prevails, order is lost; judgment in the law should never be rendered in passion, bias, and prejudice."

The trial hearing officer found for petitioner (herein) Crumpacker on the "merits of each count", and "determined" that the charges made against Crumpacker had not been proven; to him, "it was evident from the start that this proceeding wasn't the typical disbarment hearing"; that Crumpacker did not violate professional responsibility (the Code); and that in all his actions herein Crumpacker (acted and) "has done so as an advocate and with honesty."

The application and the Writ of Certiorari should in all things Be Granted.

Respectfully submitted,

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APPENDIX

PETITIONER'S REPLY APPENDIX

PETITIONER'S REPLY TO SPECIFIC POINTS
IN THE ANSWER OF THE COMMISSION AND RUMAN

Re: Commission's Answer, p. 5, 6, etc.

a. The issue of "jeopardy" was apparently never raised and "ruled on" in In re Smith (1976) ___Ind___, 351 NE2d 1.

b. The Court Clerk is the lawful and official custodian of the Court records. He is under duty to note and make record of all documents received and filed in his office, and as well the "disposition" both "temporary" and "final" of any part of the "Records" and "Files" in his office. The Court records speak for themselves and the Court can act only upon its Records (and not otherwise). When there is an absence of "record" there is no lawful record. If there is and has been an inadvertent "error" or "ommission" in the Record, the Court is competent to correct the record, to state and correct the facts (within the limit of time and circumstance, as allowed under law for the Court to do). To petitioner's best knowledge, and inquiry made, no "correction" has been made of the Clerk of Court's Records in the instant case to reflect a "transmittal" of the

Record Documents concerned. That "copies" thereof may in some way be used, such still is not upon the Records as such. When the Record of the Clerk reflects no "Transmittal", a party may stand upon the Record. The burden is on the party who makes claim that the "facts" are other and different from what the Record shows.

c. With respect to a "due process notice and hearing", a so-called "hearing" upon a "transcript" and "briefs" is not adequate and sufficient "hearing" before the Court. The hearing and appearance must be in person. This is the substance of the United States Supreme Court's decision in Selling v. Radford (1917) 243 U.S. 46, 37 S.Ct. 77, 612 L.Ed. 585, and the Federal Court decisions in In re Noell (CCA) 93 F.2d 5 and cases recognizing the validity of the rule stated therein.

Re: Ruman Answer, pp. 11 through 15.

a. The Woodmar Realty Company case involves losses of millions of dollars by fraud committed upon clients of Crumpacker, one being an aged widow, presently at age of 93 years. This case has incurred notoriety for the large amount of money involved which was lost by "fraud" over the years. That Crumpacker is willing to give continued honest

effort to seek "recovery" of losses sustained by his clients serves not to his "discredit", but to his "merit", as an advocate in long continuing zealous representation of those who often most need legal assistance. That others would rather that the matter be placed in a "grave" out and "away" from sight, does not obtain a "recovery" to those who were the victims of a fraud.

b. The document placed and put forward as that of Judge James T. Moody in Bryant v. Klaas was never "signed", and to this date contains no signature. (It apparently was "suggested" by adverse parties to said Judge Moody, but never in fact adopted by him. It serves only to "prejudice" the true facts.)

c. The case of State v. Kushner involves and eminates from a dispute and claims between Crumpacker's former legal partners and himself, relative to the representation to be made and continued in certain land condemnation cases. The matter currently is in the process of arbitration, and is one of the sources of dispute between lawyers themselves.

d. The Mancuso case (Ruman Answer, p. 13) demonstrates at worst "stubborness" upon the part of two legal advocates in "conflict". The sum of $240.00 was there by Ruman, an attorney, claimed to be due him as part of "sanctions" for "delay"

in completing a settlement. The dispute affected only the attorneys, not any client.

e. The dispute between Reed and Abrahamson (former associates and partners of Crumpacker) with Crumpacker has caused substantial "innuendo" and "rumor" about the Hammond community. The dispute and these proceedings arose about the same time; "adverse comment" generated in the community gave apparent substance to "rumor" and "gossip". Both Crumpacker on his part and Reed and Abrahamson on their part have been the subject of "common rumors" which perhaps do not stand upon the facts. The impression made should be corrected.

f. Petitioner states and submits that in his sincere opinion he has, from time to time, received adverse newspaper publicity relative to this proceeding; in each instance in a manner, as a "trial" by newspaper which was adverse tc his reputation, and reflected upon his sincerity and honesty as a lawyer. All without being first heard upon the same. In this respect, it is of interest here to note the "words" of the trial Hearing Officer, Hon. Bruce W. Douglas, which is a part of his "determination" made on November 9, 1976, in favor of Crumpacker in this matter, to-wit: "This case is decided on the merits of each count." (see Petitioner's Appendix, p. A6) Then, to-wit: "In conclusion, the Hearing Officer has found for Owen W. Crumpacker, the Respondent." (See Petitioner's Appendix, p. A18)

Then in the same paragraph: "He has done so as an advocate and with honesty."

Starting at Petitioner's Appendix p. A7 through and including A18 there is recited the determination of the Hearing Officer as made and noted by such Hearing officer on each Count. In each instance, the Hearing Officer determined that Crumpacker had committed no violation. Following such determination and immediately following the determination noted upon Count XIX (See Petitioner's Appendix p. A18) the trial Hearing Officer stated, "In conclusion, the Hearing Officer has found for Owen W. Crumpacker, the Respondent." For Ruman to contend that the findings and conclusions of law are not "in favor of" Crumpacker, as if on an "acquittal", is an obvious failure on the part of Ruman himself to understand and accept the trial Hearing Officer's determination herein.

g. On page 14 of the Ruman Answer, Ruman claims the conclusions made by the Hon. Bruce W. Douglas are contrary to the facts. Petitioner respectfully submits that the Hon. Judge Douglas was the duly appointed trial Hearing Officer. His decision is on both the "law and the facts." He has, in substance, "acquitted" Crumpacker of all charges. This is an "adjudication" on the "merits" of each Count. This proceeding is quasi-criminal. No lawful appeal or review can be made contrary to

such "acquittal" to contravene contravene the determination made.

h. Relative to Ruman (and his exceptions noted on page 15 of his Answer), petitioner submits that Ruman is in error. Crumpacker is not in accord. Such communications as Crumpacker received at any time were never with respect to any hearing allowed "in person" following on and after November 9, 1976. Again, to the extent that any action to be taken by the Supreme Court of Indiana on November 29, 1978, was opposite to and contrary to the determination made by Judge Douglas on November 9, 1976, it was contrary to "due process". The least requirement was a "then current hearing" to be provided (on or about November 29, 1978). The Court could not in all good conscience act some 25 months later (without any real notice and hearing whatever) with respect to and upon a record of a hearing provided two years earlier, certainly not if the Court were then to act negatively upon such records in a quasi-criminal proceeding, to the detriment of an attorney.